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September 2, 2008

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

**RECOMMENDATION TO PROVIDE LEGAL REPRESENTATION FOR A DEPUTY
DISTRICT ATTORNEY IN THE DISTRICT ATTORNEY'S OFFICE FOR AN
ADMINISTRATIVE PROCEEDING BROUGHT BY THE STATE BAR
(ALL DISTRICTS) (3-VOTES)**

IT IS RECOMMENDED THAT YOUR BOARD:

1. Find that the administrative proceeding is brought on account of an act or omission in the scope of the deputy district attorney's employment as an employee of the County of Los Angeles in the District Attorney's Office.
2. Find that the defense of the deputy district attorney would be in the best interests of the County.
3. Find that the deputy district attorney acted, or failed to act, in good faith, without actual malice, and in the apparent interests of the County.
4. Direct County Counsel to secure legal representation, at the County's expense, for one deputy district attorney in the District Attorney's Office.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTIONS:

I seek your Board's approval of my recommendation to provide legal representation for a deputy district attorney who has been requested to respond to a State Bar inquiry regarding alleged violations of the California Rules of Professional Conduct. This inquiry was generated by an unpublished opinion issued by the Court of Appeal of the State of California, Second Appellate District, Division One, on April 11, 2008 in the case of The People of the State of California v.

Moises Tomas Valera, B195775. The court reversed the conviction of the defendant after finding evidentiary error and prosecutorial misconduct.

I have reviewed the facts and circumstances surrounding this case. The deputy district attorney has been a prosecutor since 1997. He has been a deputy district attorney with the Los Angeles County District Attorney's Office since April 1999. At the time of the jury trial of defendant Valera, the deputy district attorney was employed by the County of Los Angeles and was acting within the course and scope of his employment. My review reveals no indication that the deputy district attorney acted in bad faith or with actual malice. Rather, it appears that the deputy district attorney acted in good faith, without actual malice and in the apparent interests of the People of the State of California and the County of Los Angeles. Further, I believe that the defense of this deputy district attorney would be in the best interests of the County.

FISCAL IMPACT/FINANCING

The costs for providing legal representation should not exceed \$10,000. Funds will be allocated from the District Attorney's existing operating budget. If the costs increase, they will continue to be allocated from the District Attorney's existing operating budget.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

Government Code Section 995.6 provides that the County is not required to provide for the defense of an administrative proceeding brought against a County employee, but the County may provide for such defense if:

- (a) The administrative proceeding is brought on account of an act or omission in the scope of his employment as an employee of the public entity; and
- (b) The public entity determines that such defense would be in the best interests of the public entity and that the employee acted, or failed to act, in good faith, without actual malice and in the apparent interests of the public entity.

CONTRACTING PROCESS:

Contracting process requirements are not applicable.

IMPACT ON CURRENT SERVICES (OR PROJECTS):

None.

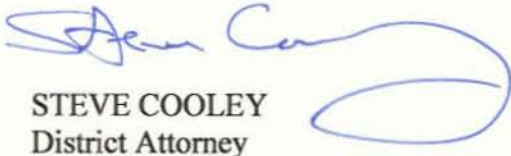
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CONCLUSION:

I recommend that your Board find that the deputy district attorney acted in good faith, without actual malice, and in the apparent interests of the County and that his representation before the State Bar is in the best interests of the County. I further recommend that your Board direct

County Counsel to secure legal representation for the deputy district attorney at the County's expense.

Respectfully submitted,


STEVE COOLEY
District Attorney

sjm/lo

c: William T Fujioka
Chief Executive Officer